

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/16/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA : NOLLE PROSEQUI

-v.- : 03 Cr. 1197 (SHS)

UZAIR PARACHA, :

Defendant. :

- - - - - x

1. The filing of this nolle prosequi will dispose of this case with respect to UZAIR PARACHA, the defendant.

2. On March 31, 2003, UZAIR PARACHA, the defendant, was arrested on a material witness warrant pursuant to Title 18, United States Code, Section 3144.

3. On August 8, 2003, UZAIR PARACHA, the defendant, was charged with conspiring to provide material support to al Qaeda, in violation of Title 18, United States Code, Section 2339B, in Complaint 03 Mag. 1580, which was filed in the United States District Court for the Southern District of New York.

4. On October 8, 2003, a grand jury of the United States District Court for the Southern District of New York returned a five-count indictment, 03 Cr. 1197 (SHS) (the "Indictment"), charging UZAIR PARACHA, the defendant, with one count of conspiracy to provide material support and resources to

al Qaeda, in violation of Title 18, United States Code, Section 2339B; one count of providing and attempting to provide material support and resources to al Qaeda, in violation of Title 18, United States Code, Sections 2339B and 2; one count of conspiracy to make and receive a contribution of funds, goods, or services to and for the benefit of al Qaeda, in violation of Title 50, United States Code, Section 1705(b) and Title 31, Code of Federal Regulations, Sections 595.204 and 595.205; one count of making and receiving a contribution of funds, goods, or services to and for the benefit of al Qaeda, and attempting so to do, in violation of Title 50, United States Code, Section 1705(b), Title 31, Code of Federal Regulations, Sections 595.204 and 595.205, and Title 18, United States Code, Section 2; and one count of identification document fraud, in violation of Title 18, United States Code, Sections 1028(a)(7) and 1028(b)(4).

5. On November 23, 2005, a jury convicted UZAIR PARACHA, the defendant, on all counts in the Indictment following a trial that lasted approximately two weeks. The Government established at trial, through evidence that included PARACHA's voluntary admissions to law enforcement agents, that PARACHA knowingly took steps to facilitate the unlawful entrance

into the United States of an individual who PARACHA knew was an al Qaeda operative.

6. On July 20, 2006, the Court sentenced UZAIR PARACHA, the defendant, principally to a term of 360 months' imprisonment.

7. On June 19, 2008, the United States Court of Appeals for the Second Circuit affirmed the conviction of UZAIR PARACHA, the defendant.

8. On November 21, 2008, UZAIR PARACHA, the defendant, moved for a new trial, pursuant to Federal Rule of Criminal Procedure 33, on the grounds of newly discovered evidence relating principally to post-trial statements by others during the course of proceedings related to Combatant Status Review Tribunals and interviews at the detention facility in Guantanamo Bay, Cuba.

9. On July 3, 2018, the Court issued an opinion granting the motion for a new trial filed by UZAIR PARACHA, the defendant, and vacating PARACHA's convictions (the "July 3, 2018 Opinion").

10. On August 24, 2018, the Government timely filed a notice of appeal relating to the July 3, 2018 Opinion.

11. On November 14, 2018, UZAIR PARACHA, the

defendant, filed a motion for bail pending trial. On November 20, 2018, the Court denied the motion, finding that, given the "serious . . . nature and circumstances of the offense charged," there were "no conditions or combination of conditions that [would] reasonably assure the . . . safety of the community." Tr. Nov. 20, 2018 Conf., Dkt. No. 140, at 5.

12. On December 21, 2018, the Government stipulated to a voluntary dismissal of its appeal of the July 3, 2018 Opinion. The Court of Appeals issued the mandate related to the voluntary dismissal on December 27, 2018.

13. On January 30, 2019, the Court set a retrial date of August 5, 2019.

14. On or about May 2, 2019, the Government informed the Court by letter that it had recently become aware of an extraordinarily large volume of classified documents that implicate important national-security equities held by members of the intelligence community and the United States military, at least some of which were likely to be subject to the Government's discovery obligations and litigation under the Classified Information Procedures Act ("CIPA"). Many of the classified documents at issue were generated during the period between PARACHA's 2005 conviction and the July 3, 2018 Opinion.

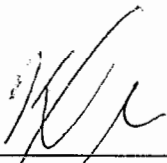
In its May 2, 2019 letter, the Government sought an adjournment until August 2020 to allow it to complete CIPA litigation and protect national-security equities belonging to members of the intelligence community and the United States military.

15. During a pretrial conference on June 20, 2019, the Court adjourned the retrial of UZAIR PARACHA, the defendant, to March 23, 2020. The Court has since indicated that it will not further adjourn the trial.

16. Because UZAIR PARACHA, the defendant, has served approximately sixteen years of his sentence; because the schedule in this matter precludes the Government from taking necessary steps to protect national-security equities without diverting substantial resources from other important national-security and law-enforcement functions; and because PARACHA has agreed to renounce his status as a lawful permanent resident in the United States and has consented to voluntary and immediate repatriation from the United States to Pakistan, the Government believes that dismissing the Indictment under the circumstances presented is the best available option to protect the public and preserve national-security equities.

17. We therefore recommend that an order of nolle prosequi be filed as to UZAIR PARACHA, the defendant, in the

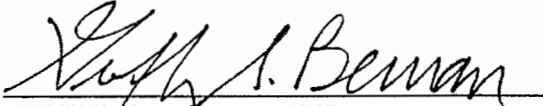
above-captioned matter.



Andrew Dember
Elizabeth A. Hanft
Kyle A. Wirshba
Assistant United States Attorneys
Lawrence Schneider
Trial Attorney, Counterterrorism Section

Dated: New York, New York
March 13, 2020

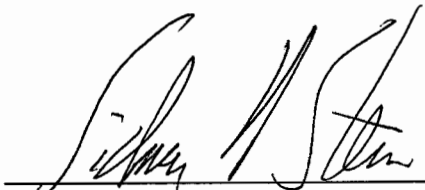
Upon the foregoing recommendation, I hereby direct,
with leave of the Court, that an order of nolle prosequi be
filed as to defendant UZAIR PARACHA with respect to Indictment
03 Cr. 1197 (SHS).



GEOFFREY S. BERMAN
United States Attorney
Southern District of New York

Dated: New York, New York
March 11, 2020

SO ORDERED:



HONORABLE SIDNEY H. STEIN
United States District Judge
Southern District of New York.

Dated: New York, New York
March 14, 2020